

Raymond and Raymond
Attorneys at Law
7 Glenwood Avenue, 4TH Floor
East Orange, New Jersey 07017
(973) 675-5622; (408) 519-6711 Telefax; (815) 642-4613 Voice-mail
Email: bankruptcy123@comcast.net
Herbert B. Raymond #HR-1379; Jeffrey M. Raymond
Attorneys for the Debtor(s)

IN RE:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
CHAPTER 13
CASE NO.: 11-42832 (MS)

WILSON MALDONADO
MARIBEL MALDONADO,

DEBTORS(S).

WILSON MALDONADO
MARIBEL MALDONADO

Adv. Pro. No.:

Plaintiff,
V.

SALLIE MAE
Defendants.

COMPLAINT TO DETERMINE DISCHARGEABILITY
OF STUDENT LOANS

Plaintiff-Debtors, WILSON AND MARIBEL MALDONADO, by way of
counsel, says as follows:

1. The Debtor-Plaintiffs (hereinafter simply plaintiffs or
debtors) filed a petition under Chapter 13 of the Bankruptcy Code
on November 14, 2011 under the case number noted above. Debtors
reside at 25 Parkway Avenue, Clifton, New Jersey.

2. This court has jurisdiction over this matter pursuant to
28 U.S.C. Section 1334, 11 U.S.C. Sections 106(a), 505(a),
523(a), 507(a)(8), and 727 and 28 U.S.C. Sections 157(a) and
157(b)(2) in that the foregoing matter involves the determination
of the dischargeability of certain debts. This court also has

1 the authority conferred under 11 U.S.C. Section 105 to issue any
2 orders or process necessary and convenient to enforce any
3 previous order made in the interests of preventing interference
4 with the orderly operation of this case and the administration of
5 justice. This proceeding is a core proceeding.

6 **STATEMENT OF FACTUAL BASIS FOR ADVERSARY PROCEEDING**

7 **COUNT 1- FULL DISCHARGE**

8 3. Plaintiffs filed a petition under Chapter 13 of the
9 Bankruptcy Code on November 14, 2011, in the District of New
10 Jersey, Newark vicinage, designated as the above-captioned case.
11 On schedule F (general unsecured claims, non-priority) student
12 loans owed to Sallie Mae in the amount of \$43,379.00 are
13 scheduled.

14 4. The tuition was incurred by the debtors' son to pay
15 tuition and other expenses at LaSalle University. Their son
16 received a partial football scholarship and incurred the above
17 loan to pay the remaining fees and costs. The debtors co-signed
18 the obligation as there son had no prior credit history and the
19 chance of the their son obtaining a loan and one with good terms
20 at that would be much greater with them co-signing.

21 5. Their son was subsequently killed in a car accident on
22 November 10, 2006. After all funeral expenses were paid, the
23 debtors were left without any savings.

24 6. The debtors sent the death certificate to Sallie Mae and
25 attempted to either relieve themselves of the obligation or at
26 least work out an alternative payment schedule but were informed
27 that they would be fully responsible on the debt as co-signors.

28 7. The debtors made payments on the loan for several years,

1 even while the joint debtor lost her job and was collecting
2 unemployment. However, eventually the unemployment benefits
3 expired and the debtors were no longer able to make any payments.

4 8. Eventually, due to constant collection efforts by Sallie
5 Mae, as well as the threatened lost of their home due to mortgage
6 arrears, the debtors filed the current petition for relief.

7 9. Although the joint debtor is once again working, it is
8 at a rate significantly less than before. The debtors have a
9 limited income for the foreseeable future and it would take over
10 thirty-three (33) years to pay off the student loan obligation in
11 full based on the current balance and their current disposable
12 income. Once ongoing, compounded interest is factored, the
13 debtors will have no realistic prospects of paying this
14 obligation in their lifetimes. The debtors are in their late 40's
15 now and will be paying this debt well into their senior years,
16 likely until each dies, and at a time when they will no longer be
17 able to work and will likely have less income.

18 10. In addition, the joint-debtor's elderly mom will
19 eventually have to move in with them when she is unable to care
20 for herself further straining the financial resources, and the
21 debtors currently also have another son in college.

22 11. The debtors have no current or anticipated available
23 income with which to pay this loan and repayment of this loan
24 would pose a substantial hardship on the debtors.

25 **WHEREFORE,** it is respectfully requested that this HONORABLE
26 COURT determine that the entire balance of this unpaid loan be
27 declared dischargeable and that the court grant further relief as
28 deemed just, equitable and proper.

COUNT 2- PARTIAL DISCHARGE

12. The same facts enumerated in paragraphs 3 through 10 above pertain here as well.

13. Some courts have allowed a partial discharge of student loans to the extent that paying it does not pose a substantial hardship on the debtors.

14. The debtors would be able to pay a portion of the aforementioned loan without a substantial hardship.

WHEREFORE, it is respectfully requested that this HONORABLE COURT determine that the debtors repay an amount the court deems fit and which will not pose a substantial hardship on the debtors in light of their current and anticipated resources. The balance of such loan not paid shall be discharged.

Dated: July 7, 2012

/S/ HERBERT B. RAYMOND, ESQ.

HERBERT B. RAYMOND, ESQ.
Attorney for the Debtor-Plaintiffs
Wilson and Maribel Maldonado